

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 516 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

PRAVINBHAI A RATHOD

Versus

RAMKRISHNA SEVA SAMITI TRUST

Appearance:

MR JAL UNWALA for MR PK JANI for Petitioner
MR MA BUKHARI, AGP, for Respondent No. 3
MR HJ NANAVALI for Respondent No. 4
None present for Respondents No.1 and 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/07/2000

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioner is claiming promotion on the post

of Junior Clerk in this petition. First he raised this grievance before the Gujarat Secondary Education Tribunal, Ahmedabad but his application was rejected. Hence, this special civil application.

3. Learned counsel for the petitioner contended that there are three post of Junior Clerk and as the petitioner belongs to reserved category (scheduled tribe) he should have been given preferential claim in the promotion. It has further been contended that as against these three posts, no candidate of reserved category has been promoted and this exercise of the respondent-management of the school is contrary to the circulars issued by the Government from time to time.

4. The counsel for the respondent No.4 submitted that the reservation in the matter of promotion for S.T. is 10% and in case it is given effect to then no post will be available for reservation. Out of three posts, if one post is filled in by reserved category (S.T.) then it will amount to reservation to the extent of 33%.

5. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

6. I do not find any rule, regulation or standing order where it is provided that while giving promotion to the post of Junior Clerk the candidates belonging to reserved category are to be given preference. They can be considered for promotion against the reserved category of posts, if any available but against the post of general category they can be given promotion only if they are found suitable for the same while considering the suitability of the candidates. The Tribunal has rightly not interfered in the matter. Otherwise such a claim if is accepted, will result, in giving of 33% reservation. There is also no rule for roster point of promotion and this finding of fact recorded by the Tribunal has not been questioned by the petitioner.

7. Taking into consideration the totality of the facts of this case, none of the legal and fundamental rights of the petitioner is infringed and this petition is wholly misconceived and the same is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. No order as to costs.
